IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 19034 of 2004

Between:

Gattala Pitchaiah, S/o. subbaiah,
R/o. Umamaheshwarapuram Village, Bogolu Mandal, Nellore District.

..... PETITIONER

AND

1 The Assistant Commissionr of Endowments, Endowments Office, Ranganayakulapeta, Nellore, Nellore District.
2 The Executive Officer, Sri Kodanda Rama Swamy Temple, Singapeta Village, Alluru Mandal, Alluru Group of Temples, Alluru Village, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ more particularly one in the nature of Writ of MANDAMUS declaring the action of the 2nd Respondent in issuing the impugned public auction notification, dated 01-10-2004 pertaining to the dry lands belonging Sri Kodanda Rama Swamy Temple, Singapeta Village, Alluru Mandal, Nellore District to an extent of Ac.7.00 cents of dry lands in Sy.No.114/8, 114/5 and 115/2 situated at Umamaheshwarapuram (Bogolu), Bogolu Village and Mandal, Nellore District as illegal, arbitrary, contrary and against the very provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 1987 (A.P.Act No.30/1987) apart from violation of principles of Natural Justice and offends Article 20 and 21 of Constitution of India and consequently by directing the Respondents to continue us as Cultivating Tenant for the above said lands.

Counsel for the Petitioner: MR.A.V.V.S.N.MURTHY

Counsel for the Respondent No.1: GP FOR ENDOWMENTS
Counsel for the Respondent No.2: SMT.N.INDRANI

The Court at the admission stage made the following:

ORDER:

Petitioner seeks a writ of Mandamus declaring the action of the second respondent in issuing the notification dated 01.10.2004 proposing to conduct public auction in respect of leasehold rights of the lands belonging to second respondent-temple, as arbitrary and illegal.

The petitioner claims to be the cultivating tenant in respect of Ac.7.00 cents of dry land in Survey Nos.114/8, 114/5 and 115/2 situated at Umamaheshwarapuram (Bogolu), Bogolu village and Mandal, Nellore District, belonging to the second respondent-temple. He states that he is a landless poor person and therefore entitled to the benefit of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987. It is also stated that he made a claim before the Assistant Commissioner of Endowments and the same is pending, but, in the meanwhile, the second respondent has proposed to conduct the impugned auction, which is contrary to law. Hence, this writ petition.

This Court while directing notice to the respondents, by order dated 13.10.2004 granted interim stay of dispossession and the proposed auction under the impugned notification was also stayed.

Today when the matter is taken up for consideration, the learned Standing Counsel appearing for the second respondent under instructions states that the claim made by the petitioner before the Assistant Commissioner of Endowments was rejected by order dated 23.09.2004 and the same was also served on the petitioner.

However, the learned counsel for the petitioner states that the petitioner intends to prefer an appeal before the Regional Joint Commissioner and therefore it would be appropriate to protect the possession of the petitioner till the disposal of the statutory appeal.

Having regard to the facts and circumstances of the case, the writ petition is disposed of granting leave and liberty to the petitioner to prefer an appeal against the order of the Assistant Commissioner of Endowments within a period of two weeks from today. In case any such appeal is preferred within the time indicated above, the same shall be considered and disposed of in accordance with law.

Till the disposal of the appeal, the petitioner shall not be dispossessed from the land in question and the leasehold rights shall not be put to auction subject to the condition that the arrears, if any, are cleared within a period of four weeks and he continues to pay the rents payable regularly.

Accordingly, the writ petition is disposed of. No costs.

_____

26.10.2004

Note: Issue CC in two days

(b/o)

VGB

To

1 The Assistant Commissionr of Endowments, Endowments Office, Ranganayakulapeta, Nellore, Nellore District.
2 The Executive Officer, Sri Kodanda Rama Swamy Temple, Singapeta Village, Alluru Mandal, Alluru Group of Temples, Alluru Village, Nellore District.

3 2CCs to the Government Pleader for Endowments, High Court

Buildings, Hyderabad (OUT)

4 2CD copies